

Date of Hearing: June 15, 2016

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
SB 1375 (Jackson) – As Amended May 31, 2016

[Note: This bill has been double referred to the Assembly Committee on Arts, Entertainment, Sports, Tourism, and Internet Media, and if passed will be heard by that committee as it relates to issues under its jurisdiction.]

SENATE VOTE: 39-0

SUBJECT: Educational equity: sex equity in education: federal Title IX notifications

SUMMARY: Requires educational institutions to post specified information about Title IX on their websites. Specifically, **this bill:**

- 1) Requires, by July 1, 2017, public schools, private schools that receive federal funds and are subject to the requirements of Title IX, school districts, county offices of education, and charter schools to post in a prominent and conspicuous location on their websites all of the following:
 - a) the name and contact information of the Title IX coordinator, including the coordinator's phone number and email address
 - b) the rights of students and the public and the responsibilities of the school under Title IX, including, links that information on the websites of the California Department of Education (CDE) Office for Equal Opportunity and the U.S. Department of Education's Office of Civil Rights (OCR)
 - c) a description of how to file a complaint under Title IX, including:
 - i) an explanation of the statute of limitations within which a complaint must be filed after an alleged incident of discrimination has occurred, and how a complaint may be filed beyond the statute of limitations
 - ii) an explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including links to this information on the OCR website
 - iii) a link to the OCR complaint form, and the contact information for the office
- 2) Requires, by April 1, 2017, and annually thereafter, the Superintendent of Public Instruction (SPI) to email a letter to all schools informing them of the requirements of the bill and of their responsibilities under Title IX.

EXISTING LAW:

Federal law:

- 1) Provides that, in part, "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program of activity receiving Federal financial assistance." Enforcement of compliance is initiated upon the filing of a complaint alleging a violation of Title IX.
- 2) Requires each school district and county office of education, or a local public or private agency that receives funding from the state or federal government, to designate a person to serve as the Title IX compliance coordinator to enforce compliance at the local level, including coordinating any complaints of non-compliance.

State law:

- 1) Requires the CDE to post on its website, in both English and Spanish, and at a reading level that may be comprehended by students in high school, the information set forth in the federal regulations implementing Title IX.
- 2) Establishes a list of rights which are based on the relevant provisions of Title IX, and authorizes the CDE to use this list to meet the posting requirement described above. Statutes provide that students have the right to:
 - a) fair and equitable treatment and the right to not be discriminated against based on sex
 - b) be provided with an equitable opportunity to participate in all academic extracurricular activities, including athletics.
 - c) inquire of the athletic director of a student's school as to the athletic opportunities offered by the school
 - d) apply for athletic scholarships
 - e) receive equitable treatment and benefits in the provision of a number of aspects of athletic participation, including equipment and supplies, scheduling of games and practices, transportation, coaching, and locker rooms.
 - f) have access to a gender equity coordinator to answer questions regarding gender equity laws
 - g) contact the CDE and the California Interscholastic Federation to access information on gender equity laws
 - h) file a confidential discrimination complaint with the OCR or the CDE for discrimination or unequal treatment on the basis of sex
 - i) pursue civil remedies for discrimination
 - j) be protected against retaliation for filing a discrimination complaint

- 3) Requires each public school that offers competitive athletics to publicly make available, beginning with the 2015-16 school year and annually thereafter, information specific to athletic participation. Schools are to use a three-prong test to determine if athletic interests of both sexes have been accommodated. These provisions are known as the Sex Equity in Education Act.
- 4) Requires each educational institution in California (K-12 and postsecondary education) to have a written policy on sexual harassment, and requires schools to display the policy in a prominent location in the main administrative building or other area of the campus or schoolsite, be provided as part of any orientation program for new students, provided to each faculty member, administrative staff and support staff, and appear in any publication of the school that sets forth the rules, regulations, procedures and standards of conduct.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- Mandate costs: One-time costs potentially in the hundreds of thousands may be incurred to the extent schools and local educational agencies claim reimbursement for costs to make the Title IX information available on their websites. (Proposition 98)
- CDE cites minimal costs to develop and send the letter as required by this bill.

COMMENTS:

Need for the bill. According to the author's office: "According to testimony provided by both the OCR and CDE, school districts are often unaware that Title IX requires them to:

- Appoint a Title IX coordinator at both the district and school level who is responsible for coordinating the school and school district's Title IX compliance, and that the coordinator should not have other responsibilities that create a conflict of interest with his or her role as coordinator.
- Adopt and publish rules and procedures on how to receive, investigate, and respond to a complaint filed under Title IX.
- Notify all students, their families, and staff of their rights under Title IX.

This lack of awareness can be seen in common day interpretations of Title IX. Whereas many people typically correlate Title IX with gender equity in interscholastic athletics, many are unaware that Title IX forbids discrimination on the basis of sex in any federally funded education program or activity. This includes protections against gender bias, gender-based harassment, sexual harassment, and sexual violence.

Although the CDE states on its website that 'many school districts now have a Title IX coordinator,' schools remain unaware of the consequences with being noncompliant with Title IX. This can result in the school district being held legally responsible if it becomes aware of or does not address, either through lack of response or lack of awareness of a complaint or violation of Title IX.

SB 1375 can help to bridge the gap between awareness and lack of compliance by providing a simply yet effective way of ensuring districts uphold their responsibilities under Title IX."

Existing posting requirements. Current law requires the CDE to post on its website the information set forth in the federal regulations implementing Title IX. There is no requirement in current law to post information about Title IX, or the contact information for the Title IX coordinator, on school campuses or on websites of school districts.

2015 OCR guidance supports putting Title IX information on websites. In an April, 2015 “Dear Colleague” letter, the OCR reaffirmed schools’ obligation to make Title IX information visible in the community. It stated:

“The Title IX coordinator’s contact information must be widely distributed and should be easily found *on the recipient’s website* and in various publications...OCR encourages recipients to *create a page on the recipient’s website* that includes the name and contact information of its Title IX coordinator(s), relevant Title IX policies and grievance procedures, and other resources related to Title IX compliance and gender equity. A link to this page should be prominently displayed on the recipient’s homepage.” [emphasis added]

This bill’s requirements to post information on school and district websites is consistent with the recommendations in this recent federal guidance.

Committee amendments. *Staff recommends that the bill be amended to* specify that the information required to be posted may be posted on the school district’s website if the individual school does not maintain its own website, and that nothing in the act shall be construed to require an educational institution to establish a website if it does not already have one.

Prior legislation. SB 1349 (Jackson), Chapter 258, Statutes of 2014 requires public schools, including charter schools, to make public specific information regarding pupil participation in competitive athletics, beginning with the 2015-16 school year and annually thereafter.

SB 429 (Jackson) of the 2015-16 Session would have required the SPI to designate a county office of education to create an instructional video on Title IX compliance and a Title IX students’ rights video. SB 429 was held in the Senate Appropriations Committee.

AB 2512 (Bonilla) of the 2013-14 Session would have authorized, beginning January 1, 2018, school districts and county offices of education to include information relative to compliance with Title IX gender equity in the “school climate” category of local control and accountability plans. AB 2512 was vetoed by the Governor, whose message read:

I appreciate the author's concerns but believe that the recently enacted Local Control Funding Formula should not now be subjected to a series of amendments. The law envisions that local communities fashion the plans that work best for them. State intervention in this process is premature.

SB 248 (Oropeza) of the, 2009-10 Session required school districts, the California Community Colleges (CCC), and the California State University (CSU) to post the list of rights afforded to students under Title IX on school districts’ websites and campuses of the CCC and CSU. SB 248 was vetoed by Governor Schwarzenegger, whose veto message read:

I have previously signed the author's bill into law that required the posting of existing Title IX requirements on school campuses and on the California Department of Education website to help promote greater student and parental awareness of athletic equity issues in California schools. This bill is largely duplicative and unnecessary, and would result in costs that are imprudent to incur at this time. Therefore, I am unable to sign this bill.

AB 2240 (Oropeza) of the 2003-04 Session required the CDE to post on its website the Equity in Athletics Bill of Rights and required each school district that offered competitive or club sports to print and post posters setting forth the Equity in Athletics Bill of Rights. AB 2240 was vetoed by Governor Schwarzenegger, whose veto message read:

The Federal Title IX requirements that are intended to ban sex discrimination in school academics and athletics have provided a worthy benefit to improving equity in athletics for women and men. However, establishing an additional Equity in Athletics Bill of Rights is generally duplicative and unnecessary. Instead, the Legislature could approve a bill requiring the posting of existing Title IX requirements, on school campuses and on the California Department of Education website, to help promote greater student and parental awareness of athletic equity issues in California schools.

AB 2323 (Jackson) of the 2003-04 Session would have required the CDE to develop a Gender Equity Compliance Survey for high schools. AB 2323 was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Legal Aid Society-Employment Law Center (sponsor)
American Association of University Women
Equal Rights Advocates
Equality California
San Francisco Unified School District

Opposition

None on file

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